REMARKS

Claims 1-9 are in the application and are presented for consideration. Claims 1-4 have been allowed. By this amendment, Applicant has presented the subject matter of allowable claim 7 in independent form by combining it into claim 6. Accordingly, claim 6 is now in allowable form. Applicant has also amended claim 5. New claims 8 and 9 have been added to further specify the use of the acceleration forces to indicate whether or not the motor vehicle has moved.

Claim 5 has been rejected as being obvious based on the teachings of Bertsis (U.S. 6,198,996 in view of Leatherwood et al. (U.S. 4,413,522).

The Bertsis reference discloses a method and apparatus for associating the tuning or more particularly the suspension or other tunable states of a vehicle with a particular driver. This involves identification of the driver wherein this is matched to store driver preferences such as a performance and ride parameters. An onboard computer then adjusts performance and ride characteristics of the vehicle. Although a sensing is provided and it is noted that the system monitoring 29d continuously monitors pitch, yaw, roll and stiffness attributes, as correctly noted in the rejection, an acceleration sensor is not used. Applicant disagrees that this sensing is considered an evaluation of acceleration forces. Instead, it is believed that this involves sensing distance changes of particular suspension components (angular movement of ball joints etc.). In any event, no significant detail is presented in Bertsis. Bertsis does mention the possibility of the identification feature being coupled with a breathalyser 1050 for testing for alcohol content. However, this is in no way associated with or coupled with

measuring acceleration forces. It is Applicant's position that accelerating forces are not measured in Bertsis (angular positional changes etc. are instead mentioned) and Bertsis does not teach or suggest using an evaluating control unit to evaluate the accelerating forces acting on the motor vehicle.

Leatherwood (U.S. 4,413,522) is referred to with regard to disclosing an acceleration sensor and determining a frequency spectrum of a function and evaluating this on the basis of Fourier Analysis. Leatherwood et al. is concerned with analysis of ride quality and particularly wherein vibrations are sensed. The vibrations or noise measurements are converted into a noise discomfort value. As such, Leatherwood et al. is interested in evaluating vehicles as to vibration discomfort and provides no suggestion or teaching with regard to using this information in a process which includes breath alcohol concentration determination and activation of the vehicle on the one hand as well an acceleration measurement and using this for determining whether the vehicle has been moved. Bertsis is focused on identification and with this a lockout of functionality based on identification being associated with a user being prone to drive under the influence of alcohol. Bertsis has an unrelated mention of driver identification to suspension setting preferences (based on the measurement of angular deflection of suspension parts). There is no suggestion with these teachings to look to Leatherwood et al. so as to provide a process as claimed in claim 5. Leatherwood et al. is interested in providing discomfort settings and Bertsis is involved in restricting use of a vehicle based on identification and changing settings in a vehicle based on identification. The teachings together fail to suggest aspects of the process. The process is clearly neither taught nor suggested by the prior art as a whole.

Applicant respectfully requests that the Examiner reconsider the rejections and favorably consider the claims as now presented.

Applicant requests consideration of references which have been cited in an Examination Report issued by the German Patent Office on October 6, 2003. Applicant attaches the necessary Government Fee for consideration of the references at this time.

DE 101 10 493 A1 discloses a method for generating an information signal relating to motor vehicles, by which the measured acceleration signals are recorded for several directions and evaluated on a time scale. Although this does involve evaluation of acceleration signals, the reference fails to teach or suggest the combination of features of the invention. No full translation of the reference is available to Applicant at this time. However, Applicant attaches an English language abstract.

U.S. 5,736,923 has been cited. This reference just presents an additional method for recording and evaluating acceleration forces in a vehicle. Again, this fails to teach or suggest the combination of features claimed.

EP 1 188 625 also discloses a method of recording and evaluating acceleration forces in a vehicle. Again, this reference fails to teach or suggest the combination of features claimed.

DE 42 13 222 discloses a method for detecting roughness of a road surface by evaluating in different directions characteristic noise spectra created by wheels rolling on the surface. This reference again fails to teach and fails to suggest the combination of features claimed. No full translation of this reference is available to Applicant at this time. However, Applicant attaches an English language abstract.

Consideration of the reference is requested.

Further and favorable action on the merits is requested.

Respectfully submitted
for Applicant,

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SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-0410.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS EXPRESS MAIL IN AN ENVELOPE ADDRESSED TO:

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McGLEW AND TUTTLE, P.C.

BY: Yonitza Fonte DATE: August 17, 2005